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# Two Crises. Two Very Different Outcomes
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Crisis situations can come in many shapes and sizes but a key ingredient to them all is the risk they place on an institution's reputation. It has been said over and over again how important it is for firms to plan for crisis so they can know when they are happening. The delay caused during the time period between an executive asking, "is this a problem?" and deciding the answer is "yes!" can seriously impact the organization's ability to respond appropriately and, in extreme situations, set a path for ineffectiveness. Likewise, rash judgments that crises are happening, that are made without careful consideration, are equally dangerous.

This past year law firm marketers have been witness to several surprising events that have led firms quickly into "crisis mode." Two worth exploring are Clifford Chance's infamous memo and Pillsbury Winthrop's infamous press release.

Each episode offers important lessons.

**Clifford Chance and the "Associate Memo"**

There once was a highly respected law firm…. Truth be told, Clifford Chance is *still* highly respected, though the legal community was breathless last October when, for a short time, it seemed like clients might revolt *en masse* over a suggestion that the firm's attorneys routinely padded bills. The scandal was caused after an internal memo was leaked by disgruntled associates to the Greedy Associates message board and beyond.

Interestingly enough, the memo was produced *at the request of* the firm's U.S. Managing Partner in response to lousy ratings the firm had received in the American Lawyer's annual associates' survey. What happened afterwards is an example of bad things happening to good people.

First, from an internal communications perspective, a report from a representative group of associates was an appropriate request to make and a step in the right direction given the partnership's sincere desire to address the associates' concerns. Step one in a potential crisis is to realize that where there is smoke there is probably a fire. There may not actually be a full-fledged "fire" but something is probably going on that is creating tension within the organization and needs to addressed and, most likely, fixed.

Problems that linger or are not dealt with properly tend to snowball and lead to crisis. So in Clifford Chance's case, they took steps to get a handle on the problems in what was sure to be an effort to fix them. What went wrong?

Step two in a crisis is to figure out what the risk factors are for each possible action and response and weigh them against the potential results. In the Clifford Chance example it's obvious the Managing Partner would have been much better off if he had requested a verbal report rather than a written memo. A verbal report and one-on-one meeting with the associates might have been a solution outside of his comfort zone, but it would have been a much better solution to the problem given an even cursory read of today's new market realities.

In the past, where it may have been reasonable to assume that a firm's "dirty laundry" would stay within the firm (and perhaps been gossiped about behind closed doors at rivals), the market these days is very different. Competition is too fierce for competitors to let rivals take hits without consequences. With email and message boards, dissemination of information is too easy. And besides all that, there was ample precedent that memos like the one requested get leaked to the press – it had happened to other firms, albeit with slightly more mild consequences. Indeed, the Greedy Associates message board -- even on a mild day -- is a shocking barometer of how little respect associates have toward their own firms.

Clearly then, as a first defense against a crisis, given the market and the likelihood that a written memo would leak, the information should have been requested as a verbal briefing. That didn't happen and the memo leaked – or rather shot around the world like a bolt of lightning. Within it was a very short sentence in a larger section that *suggested* the associates regularly padded client bills because they was no way they could meet the outlandish billing quotas set by the partnership – and, even more devastating, the memo *suggested* that the partners knew this padding practice to be standard operating procedure.

It was a pleasant surprise to see how well – all things considered -- the firm, and especially Jolie Goldstein, handled the situation from this point forward. They did not circle the wagons or hide their heads in the sand – we'll never know, but they might not be here anymore if they had. Instead, they addressed head-on the concerns of both their associates and *their clients* who had understandably become concerned and angered over the billing questions. Indeed, after categorically denying the over-billing suggestions, critical to their response to clients was the promise to fix the associate problems. Interestingly, and as a testament to the firm's handling of this point, the conversation about billing quickly shifted from the firm specifically to the profession generally (a nice re-direct and suddenly the firm had a lot more defenders).

Even more interesting, however, was the fortunate observation by some in the media to really consider the associates' complaints and then label them "ridiculous". As a lesson for dealing with things of this nature the example is terrific. Rather than focus on any one (legitimate) complaint, the conversation became about them all. And many of the complaints were really absurd (i.e. "better food on 53", etc.). The nature of some of the items on the associate's long list of grievances led one wry reporter at Slate to proclaim -- under the headline, "Free the Baby Lawyers" – "The absurdity of the Clifford Chase memo isn't that these associates regret their Faustian bargain. It is that they just want shiny shoes for their troubles."

The firm had one other thing going for it, which is another lesson for all: Generally, as a long-term strategy to dealing with unforeseen problems, firms should engage the media when times are good so when bad things do happen, they'll have some capital stored in the public opinion bank. Fortunately, clients and influencers in the market knew Clifford Chance well enough to ensure that this wouldn't be their only impression of the firm.

**Pillsbury's Press Release**

Pillsbury's response to a rival firm's rather typical announcement that they had lured away a partner sent shock waves through the legal community last September.

The episode is a perfect example of the nasty effects of rash decision making. As the story goes, upon receiving advice from a recruiter that on-going partner defections would hurt the firm's reputation, Pillsbury quickly issued and widely disseminated a press release claiming the partner had not been producing and had even been the target of an internal sexual harassment investigation.

Legal arguments about slander and libel aside, strictly from a public relations standpoint, the firm's actions were strange. Granted, a world in which firms took swipes at each other after each lateral move would certainly be entertaining; actually engaging in that sort of conduct is foolhardy.

Had nothing come of this in the legal arena (Pillsbury was sued by the former partner for $45 million; the matter settled confidentially) in denouncing their former partner, the firm would still have put themselves on the wrong path. Because, unless they planned to issue a similar release in response to *every* defecting partner, their silence on those occasions when they didn't would suggest that *those* partners *were* important and worthwhile to the firms that lured them.

In general, for most matters, it is better to say something (albeit something appropriate) then stay silent (i.e. get your messages into the market). But it is generally *never* a good idea to break from an *established* policy of silence (i.e. a policy in most firms of not commenting on departures other then saying, "we wish them well") unless *that* break is going to be the *new* policy, which would, in these lateral hiring matters, not be very prudent.

So what is an appropriate way to handle "crisis" like important partner defections? Most firms would be far better off when partners leave by saying (if asked to comment) something to the effect of: "We value all of our partners and the work they do for our clients. We have a strong team that allows us to provide our clients with valuable expertise and terrific service. Partner X will be missed -- and we wish her well -- but our practice and, most importantly, our clients, will be fine."

If it is critical that *another* story be told (i.e. that the defection isn't a big deal; that the partner was pushed out; etc.) that can be done on background after 1) thoroughly defining the most important messages; 2) carefully selecting the appropriate outlet and reporter for the message and; 3) negotiating up front with the reporter about what will be on background and how that information will be attributed, and what will be on the record attributable to the firm's spokesperson.

That is a more appropriate strategy – which is sends a positive message about your firm's value -- than a scorched earth strategy where hardball tactics make the significance of the news much bigger than it would have been on its own.

**Bottom-line**

They don't call situations with a distinct possibility of a highly undesirable outcomes "crisis" for nothing. A crisis situation presents enormous threats and represents significant risk to the company's reputation, operations, market share, sales, employee morale, and overall financial performance. Crises also represent "turning points" and, as such, present enormous potential opportunities (i.e. in Clifford Chance's case an opportunity to restructure its associate retention program for the benefit of current and future lawyers).

The key is to manage crises properly. And the critical elements of that "easier said than done" piece of advice are to *think strategically* and *act decisively.* Think five or ten moves into the future, reality test scenarios, look for past similar examples, consider the problem from the other side's perspective, ask questions – and then take action. A company that fails to act appropriately in a time of crisis will quickly become a company unable to survive.

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